

COMMITTEE PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification of El Paso) Docket No. 00-AFC-5
Merchant Energy's United)
Golden Gate Power)
Project (UGGPP) Phase 1)
)

HOLIDAY INN
275 South Airport Boulevard
South San Francisco, California

THURSDAY, JANUARY 18, 2001

10:00 A. M.

Reported by:
Valorie Phillips
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

None

STAFF PRESENT

Gary Fay, Hearing Officer

Kevin Kennedy, Project Manager

Dick Ratliff, Staff Counsel

PUBLIC ADVISER

Roberta Mendonca

REPRESENTING THE APPLICANT

B. Donald Brookhyser

ALSO PRESENT

Mark R. Wolfe, Counsel on behalf of CURE

Gregg Wheatland, Deputy City Attorney
City of San Francisco

Jesse D. Frederick, Vice President
WZI, Inc.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 HEARING OFFICER FAY: Good morning. I
3 am Gary Fay, Hearing Officer on this case. And
4 this is a Prehearing Conference conducted by the
5 California Energy Commission for the Application
6 for Certification of El Paso Merchant Energy's
7 Proposed United Golden Gate Power Project, Phase
8 1, that is proposed to be built at San Francisco
9 Airport, just east of the United Airlines
10 maintenance facilities.

11 What we would like to do today is use
12 the time as an informal hearing to -- and I
13 shouldn't call it a hearing, call it a conference,
14 because it is informal. And, as you can see,
15 there's no Commissioner here today and we will be
16 taking no evidence today. This is just a
17 housekeeping event for us to determine what
18 evidence people will be putting into the record
19 next week at our evidentiary hearing on Friday, to
20 be located here, and how long it will take to put
21 that evidence on; who, if any parties wish to
22 cross examine witnesses, that type of thing, so
23 that our hearings can go smoothly.

24 By way of introduction I understand a
25 number of people in the audience were not able to

1 attend the informational hearing at which the
2 project was presented in some detail and the
3 Energy Commission process was explained. So,
4 rather than duplicate that informational hearing,
5 I would just ask that members of the public who
6 are here, if they are confused, if they could just
7 ask questions and if it's not too disruptive as we
8 go along, we'll try to keep you informed.

9 The Energy Commission's powerplant
10 siting process is a formal legal process that has
11 formal intervenors just like parties to a lawsuit.
12 The staff on my left is represented by Kevin
13 Kennedy, Project Manager and Dick Ratliff, the
14 attorney, and they represent the public interest.
15 And if you have concerns, you should definitely
16 communicate them to the staff and the staff may be
17 able to address your concerns and any revisions to
18 their analysis.

19 They do have a staff analysis that was
20 published on January 11th and I understand Mr.
21 Kennedy has some copies of that available and that
22 is a very important document for the public to
23 read, because it is the first expression of the
24 staff's review of this project.

25 Another important document, that was

1 prepared originally by the Applicant, and the
2 Applicant's representatives are to my right, WZI
3 is the consultant for El Paso in proposing the
4 project. And WZI prepared a series of binders
5 that we call the Application for the Certification
6 and those are available in your local library and
7 they contain a great deal of information about the
8 project proposal.

9 It's not the final call on the project,
10 but it is the Applicant's expression of what they
11 would like to build and I encourage you to look at
12 that as well if you have questions about the
13 project.

14 So, what I'd also like to do is anybody
15 that would find it useful, we have kind of a score
16 sheet available up here that I use to note the
17 project on a subject-by-subject basis, whether
18 we're going to have extensive cross examination
19 and what parties will be involved and that type of
20 thing and it just helps me keep notes of what we
21 will be doing at the evidentiary hearings.

22 So, I would like to get started right
23 away. We will have an opportunity for public
24 comment at the end of the prehearing conference
25 and I know that, starting at one o'clock, Kevin

1 will be conducting a staff workshop that is very
2 informal and it is a chance for the public to ask
3 questions or to make comments about different
4 aspects of the project, and the parties will be
5 communicating with each other to clarify various
6 issues.

7 So, are there any questions about the
8 way we plan to proceed?

9 Okay. I do want everybody to be sure to
10 sign in. Where is the sign-in sheet?

11 PROJECT MANAGER KENNEDY: Mary Jane has
12 the sign-in sheet.

13 HEARING OFFICER FAY: Okay. Please be
14 sure to sign the sign-in sheet. It helps us know
15 who attended and it may help us communicate with
16 you if we find that you need some materials
17 regarding the project.

18 MR. FREDERICK: Gary, also we have a set
19 of the AFCs here. We'll put them in the back of
20 the room if anybody wants to take a look at them
21 before we actually need them to respond to any
22 issues. We'll make them available in the back.

23 HEARING OFFICER FAY: That would be
24 helpful. An example of how that might be useful
25 is if you, for instance, are worried about the

1 visual effect of the project, you can look under
2 visual in the AFC and there are computer simulated
3 presentations of what it would probably look like
4 from different neighborhoods. And if you can
5 match up the key observation position as it
6 relates to your neighborhood, you get an idea of
7 what the project would look like from your
8 neighborhood.

9 And, Kevin, are there staff assessments
10 in back too? Yeah, the document with the yellow
11 cover is the staff assessment and you may want to
12 look at that as well.

13 Okay. Why don't we get started. If we
14 can go -- well, first of all, I understand there's
15 a great deal of agreement among the parties and it
16 might be more efficient to, rather than go subject
17 by subject, just to see how many areas the parties
18 plan to cross examine in and/or present live
19 witnesses. And whether or not a party will be
20 required to bring their witness will clearly
21 depend on what the other party's needs are and
22 what the committee wants to do.

23 But I'll be deciding today how many live
24 witnesses need to attend, and if there is no
25 disagreement in an area, then we've informed the

1 parties that they may submit the information or
2 testimony in a written form with a signed
3 declaration, signed under penalty of perjury, and
4 it's legally significant that is the position of
5 the party.

6 If there are questions about it, the
7 Project Manager in each case, either the staff or
8 the Applicant may answer questions about that
9 topic area. If that Project Manager is not able
10 to answer questions because they are too detailed
11 we may have to call the witness at subsequent
12 hearings.

13 Okay. So, why don't we go ahead.

14 Jesse Frederick, representing WZI. Good
15 morning.

16 MR. FREDERICK: Good morning.

17 MR. BROOKHYSER: If I may proceed.

18 HEARING OFFICER FAY: Oh, sure.

19 MR. BROOKHYSER: Excuse me, Mr. Fay. My
20 name is Donald Brookhyser and I'm the attorney for
21 the Applicant.

22 I think as to all areas, except air
23 quality land use and transmission system
24 engineering the Applicant believes there are no
25 disputes that require adjudication and the

1 Applicant has no dispute with or contest with
2 staff's assessment in those areas. And we would
3 propose that the testimony of Applicant as well as
4 the staff's assessment in all of those other areas
5 be admitted by declaration and there would be no
6 need for cross examination by Applicant.

7 HEARING OFFICER FAY: In your opinion,
8 can the testimony in those three areas, to the
9 extent that it is available now also be taken on
10 declaration?

11 MR. BROOKHYSER: Well, we certainly need
12 some direction as to how you or the Committee
13 would like to proceed. As to air quality, land
14 use and transmission system engineering we expect
15 there will be no disputes and our testimony as
16 filed will stand, but the final documents in each
17 of those areas, such as the final determination of
18 compliance from the air district, the final lease
19 documents or other consents with regard to land
20 use and the inner connection study from PG&E and
21 the -- with regard to those three areas, land use,
22 air quality and transmission system engineering
23 there are some documents that still need to be
24 received from third parties. We anticipate that
25 those will not raise any disputes or require

1 significant or substantial change to testimony,
2 but, of course, we can't confirm that until we
3 receive those documents.

4 So it seems to me there are two ways to
5 proceed with regard to those areas. We either
6 wait for subsequent hearings, such as the hearing
7 on the preliminary decision, admit those third
8 party documents as well as the parties' testimony
9 or we could proceed at the hearing, admit the
10 testimony in those three areas with a stipulation
11 on the record that if there are no further
12 disputes then the testimony stands as submitted.

13 HEARING OFFICER FAY: Okay. I'll ask
14 all the people present to sort of keep that in
15 mind and perhaps we can get an expression from
16 those involved in the case which they prefer. I
17 think, obviously it would be an incomplete record
18 to receive testimony on these areas on the 29th or
19 the 26th, but at the same time it would sort of
20 flesh out the issues for the public and inform
21 everybody of what the questions will be and they
22 can be in a better position to understand what the
23 missing pieces would add, if anything.

24 MR. BROOKHYSER: I think that completes
25 all my discussion about testimony in areas of

1 dispute.

2 HEARING OFFICER FAY: Okay. Staff?

3 STAFF COUNSEL RATLIFF: We're in accord
4 with that. Really I think it's the Committee's
5 choice how it wants to handle the incomplete
6 areas. If you want to take testimony and leave
7 the record open and then complete it either at a
8 subsequent Committee Hearing prior to the report
9 on the PMPD or perhaps even consider doing it at
10 the PMPD hearing when presumably you'll have the
11 final DOC and the interconnection study, that's
12 really up to the Committee to decide.

13 I think the other decision that we're
14 largely indifferent to is what witnesses the
15 Committee would want for public information value.
16 We think there are no facts to be adjudicated in
17 the various areas, but you may want to have live
18 witness testimony in a few selected areas simply
19 as a public information point. And, again, we
20 leave that -- we have no real view on which
21 witnesses those might be, but clearly air quality
22 would be one of those areas where I think there
23 would be the greatest level of public interest.
24 So, certainly you might want to consider that.

25

1 HEARING OFFICER FAY: Anything further
2 from the staff?

3 CURE?

4 MR. WOLFE: Yes, thank you.

5 I'm Mark Wolfe here for CURE, here,
6 basically just in a reporting capacity. You know,
7 AB 970's four-month fast track process for peakers
8 requires the Commission to find that the Applicant
9 has a contract with a general contractor and is
10 also contracted for an adequate supply of skilled
11 labor to construct, operate and maintain a thermal
12 powerplant.

13 We expect to provide, in the form of a
14 declaration with attachments, contracts to those
15 effects at the Committee's pleasure. I'm not sure
16 whether we need to sponsor a witness, whether we
17 can simply docket these agreements, or whether we
18 need to undergo the formality of a signed
19 declaration. And so I would, I guess, put that
20 question to the Committee, in what form they want
21 evidence that this requirement has been satisfied.

22 HEARING OFFICER FAY: I think perhaps
23 the best way to handle that would be to introduce
24 them at the -- do you plan to attend the
25 evidentiary hearing?

1 MR. WOLFE: I'm able to. My preference
2 would be not to have to if there was another way
3 to enter this by stipulation, but I'm available
4 to.

5 HEARING OFFICER FAY: Well, if you could
6 enter evidence of the contractual relationships
7 with a declaration from somebody authorized to do
8 so, submit it to the docket and serve it on all
9 parties, and that should occur before the
10 evidentiary hearings.

11 MR. WOLFE: So this will be before the
12 26th?

13 HEARING OFFICER FAY: Yes.

14 MR. WOLFE: Okay.

15 HEARING OFFICER FAY: Are they
16 completed?

17 MR. WOLFE: Yes.

18 HEARING OFFICER FAY: Okay. I think
19 that would be satisfactory.

20 Any comments or disagreement on that?

21 Anything further, Mr. Wolfe?

22 MR. WOLFE: No, thank you.

23 HEARING OFFICER FAY: Mr. Wheatland.

24 MR. WHEATLAND: Yes. I'm Gregg
25 Wheatland. I'm Deputy City Attorney for the City

1 and County of San Francisco. The City is the
2 property owner, the underlying property owner for
3 the site of the proposed project and the City will
4 also be the agency responsible for review of many
5 of the permits necessary to construct this
6 facility, post certification.

7 We have filed a prehearing conference
8 statement and I have some additional copies here
9 this morning for anyone who didn't receive it, who
10 would like to see a copy of our statement.

11 We have identified two areas that are
12 not complete for which additional information is
13 required. Those are the same two areas mentioned
14 by the Applicant of air quality and transmission
15 system engineering.

16 In the area of air quality, if the final
17 determination of compliance is substantially the
18 same as the preliminary determination, as we
19 expect it will be, there should be no contested
20 issues in the area of air quality.

21 But the other area is transmission
22 System Engineering. PG&E has not completed the
23 interconnection study for this project. We're not
24 in a position at this point to say whether there
25 are any contested issues. However, the staff

1 assessment has mentioned an earlier
2 interconnection study by PG&E for a larger project
3 at the same location and if we can obtain a copy
4 of that interconnection study from the staff, the
5 Applicant or PG&E and have an opportunity to
6 review that we may be able to advise the
7 Commission whether or not we anticipate any
8 contested issues in that area, even in advance of
9 the completion of PG&E's current study.

10 HEARING OFFICER FAY: Can I just stop
11 there? Can you address that, Kevin? Is there
12 such a study?

13 PROJECT MANAGER KENNEDY: My
14 understanding is that PG&E did study
15 interconnecting the barge that they had proposed
16 last summer at the same location that this project
17 would interconnect and that that project was 90 or
18 95 megawatts, so that they did do such a study.

19 We do not have a copy of the study. My
20 understanding is it seems likely that we would not
21 be able to get the study out of PG&E any faster
22 than we'll get the actual interconnection study
23 for this project. We're expecting PG&E to
24 complete the interconnection study for this
25 project at the end of next week on the 26th is the

1 date that we were given.

2 One other thing that we did not mention
3 in the staff assessment, and this was an oversight
4 on our part, is that as part of the Application
5 for Certification, one of the things we required
6 the Applicant to submit as part of their
7 supplemental information was an interconnect study
8 done by a consultant. It's not the formal PG&E
9 study, but there was as, a part of the
10 supplemental information, at least the first step
11 towards an interconnection study. And the
12 Applicant may be able to elaborate a bit on the
13 value of that study versus what's expected from
14 PG&E.

15 But talking to our transmission system
16 engineering staff they have done some degree of
17 running of the interconnection based on the
18 information that they have on computers at the
19 Energy Commission. We are not anticipating a
20 problem with the connection at this point.

21 HEARING OFFICER FAY: Did they include
22 any of that analysis in the staff assessment?

23 PROJECT MANAGER KENNEDY: No, they did
24 not.

25 HEARING OFFICER FAY: So the City

1 doesn't have access to that or the PG&E studies.

2 How about the Applicant's study, do you have
3 something in the record?

4 MR. FREDERICK: We did do a system
5 impact study more so than the facility study
6 portion of the interconnect by a third party, not
7 PG&E. It is our opinion that PG&E's system impact
8 study will pretty much look the same as the one
9 that we submitted. We don't expect any major
10 deviations there, they both use the same computer
11 modeling techniques.

12 HEARING OFFICER FAY: Is your study in
13 the record?

14 MR. FREDERICK: Yes, it is.

15 HEARING OFFICER FAY: And can you give
16 us a reference so Mr. Wheatland can find a --

17 MR. FREDERICK: I beg your pardon, I'm
18 sorry?

19 HEARING OFFICER FAY: How can he find it
20 conveniently? Can you give us a reference?

21 MR. FREDERICK: Well, we have copies of
22 it included in the supplemental document that was
23 submitted in response to staff's data request?

24 HEARING OFFICER FAY: And what is the
25 title of it?

1 MR. FREDERICK: I don't know the formal
2 title, but it would probably be the System Impact
3 Study, and, Jim, could you get a copy of that for
4 me, please? And we can make a duplicate and
5 provide all interested parties with that.

6 With regard to PG&E's study, because I
7 did discuss their prior interconnect studies,
8 because they were largely done as internal
9 studies, so they don't have formal documentation
10 that we would normally see in the traditional
11 system impact facility study type protocol that
12 they use for private parties, so I think getting
13 that study would be a little problematic. I think
14 the easiest thing for the city to do is just to go
15 query PG&E and ask them if they have study data,
16 because they won't find a formal study, per se,
17 like we would get when we go through the formal
18 system impact and facility study process.

19 HEARING OFFICER FAY: So we've got your
20 System Impact Study in the supplemental documents.
21 We expect PG&E's interconnect study on the 26th
22 and your last recommendation about just contacting
23 PG&E. Mr. Wheatland, do you think among those
24 three that might address the concern you raised?

25 MR. WHEATLAND: Well, I had suggested

1 getting access to the earlier PG&E study in trying
2 to expedite this and determine if there are any
3 contested issues in advance of seeing the study
4 that PG&E is presently working on. But in the
5 absence of any formal documents, I think the most
6 prudent course would just be for us to wait to see
7 the study that PG&E hopefully will complete soon,
8 and then we can review that, and that, I think,
9 will be the best information to rely on.

10 HEARING OFFICER FAY: Okay, good.

11 And I interrupted you, I'm sorry, to
12 divert on that? Are there other things?

13 MR. WHEATLAND: Well, yeah, I wanted to
14 mention two other things that were mentioned in
15 the prehearing conference statement. One is that
16 there were a number of issues that are not
17 contested but are issues that are requiring
18 clarification that we have identified in our
19 prehearing conference statement. We think these
20 issues should be relatively easy to resolve and I
21 don't believe they are contested nor do they
22 necessarily require an evidentiary hearing, but we
23 wanted to flag those for the Committee and for the
24 staff and these are issues that we can discuss at
25 the workshop this afternoon.

1 HEARING OFFICER FAY: Okay.

2 MR. WHEATLAND: And then finally, I have
3 raised some issues about scheduling and
4 reimbursement of local agencies and I'd like to
5 discuss that at the prehearing conference at the
6 appropriate time.

7 HEARING OFFICER FAY: That's fine. My
8 understanding, after reviewing your prehearing
9 conference statement is that these are usually
10 directed to the staff and that's fine if you want
11 to put your position on the record during the
12 prehearing conference, that's great. I think the
13 nuts and bolts of it, you know, should be directed
14 to the staff as to exactly when you should file
15 and what it should look like and how long the
16 valuation should take.

17 MR. WHEATLAND: In terms of
18 reimbursement?

19 HEARING OFFICER FAY: Yes.

20 MR. WHEATLAND: It's my understanding
21 and I may be incorrect that the City would not be
22 eligible for reimbursement unless a formal request
23 is made by the Commission for review by the local
24 agency. And to my knowledge, that hasn't
25 occurred.

1 HEARING OFFICER FAY: Right, and I
2 understand in your filing that you've made that
3 formal request, is that correct?

4 MR. WHEATLAND: Yes, but that request
5 for review can be made either by the Chairman, the
6 Presiding Member of the Committee or the Executive
7 Director. And so we are asking, through you, to
8 the Presiding Member to assist us in making that
9 request.

10 HEARING OFFICER FAY: Okay.

11 MR. WHEATLAND: And I just would like to
12 add very briefly that, as we all know, we're in an
13 expedited siting process that was created by the
14 Legislature. That process puts some extraordinary
15 burdens on all of the parties in this proceeding,
16 the Applicant, the staff, the Commission and local
17 agencies.

18 The legislation did provide for
19 additional funding to the Commission itself to
20 assist in that review and we would ask that the
21 reimbursement provisions that are made available
22 under the Commission's rules would allow for the
23 City of San Francisco to be reimbursed for the
24 extraordinary cost that it bears in trying to make
25 a timely response to this proceeding.

1 HEARING OFFICER FAY: Okay, sure. I
2 appreciate that.

3 I just want to pass along, that in my
4 checking around the hearing office I was informed
5 that the staff usually handles those and so you've
6 made your request formally to the Committee, I
7 acknowledge it and who processes it is something
8 that the Commission can worry about internally and
9 you don't need to worry about that.

10 MR. WHEATLAND: Thank you very much.

11 HEARING OFFICER FAY: I do have a couple
12 of questions.

13 Regarding the sublease, you didn't
14 mention that. The Applicant did as one of the
15 missing pieces documenting the sublease. Do you
16 have any idea of when that might be available?

17 MR. WHEATLAND: No, I'm sorry, I don't
18 know when that would be available. I think it's
19 the intent of the parties to complete the
20 negotiations, regarding these leases and subleases
21 as quickly as possible, but to my knowledge there
22 is no specific date that's been determined for
23 completing that process.

24 HEARING OFFICER FAY: Can we assume that
25 under a worst case scenario it would be entered

1 into the record prior to the Commission making its
2 determination on the project?

3 MR. WHEATLAND: No, I don't think we can
4 assume that. There is a condition, a proposed
5 condition of certification that's been proposed by
6 the staff that would require the signed leases to
7 be tendered a certain number of days prior to the
8 commencement of construction or to the issuance of
9 certain permits. As we read that condition that
10 condition contemplated that the signed leases
11 might be available after the date that the
12 Commission would grant certification, but before
13 construction would begin. And the City thinks
14 that that's a very reasonable condition to place
15 on this particular project, so I think that the
16 worst case we would assume that the signed leases
17 would be available by the deadline necessary to
18 ensure that construction began and that this plant
19 could operate by August 1st.

20 HEARING OFFICER FAY: Okay. I just want
21 to anticipate anything that might cause confusion
22 or delay and I can anticipate questions by the
23 Commission regarding site control if the documents
24 haven't been executed or if there isn't some
25 preliminary indication that would give the

1 Commission comfort that this is all in place. Do
2 you want to respond, Jesse?

3 MR. FREDERICK: I guess the easiest way
4 to respond is El Paso's position so far has been
5 that issues related to contracts and financial
6 terms are, at best, hard to resolve in a normal
7 schedule. This is an accelerated schedule. It
8 exposes you to a lot of possible stumbling blocks
9 in the process.

10 However, the commitment remains that the
11 facility will be installed in time to meet the
12 forecasted date of August 1st. And anything that
13 can be done to adjust the schedules accordingly
14 will be done as best we can, recognizing, of
15 course, that the Commission has to make their
16 determination based on facts presented before them
17 or at least leave stipulations or provisions for
18 resolution in the normal course of the project.

19 I think that all we can do is just ask
20 the Commission to sort of use their collective
21 wisdom and help us in terms of allowing us enough
22 latitude to resolve these commercial and financial
23 issues and still institute the program that we're
24 trying to accomplish by AB 970.

25 HEARING OFFICER FAY: Okay. I guess

1 just informally my reaction would be that I'd
2 encourage the parties, if at all possible, to have
3 things put together in a pretty secure way by the
4 time the Commission reacts in March. If that's
5 not possible then I hope you'll be prepared to
6 address that. I don't know what level of concern
7 might be expressed in a final decision meeting,
8 but it's just something I'd flag for you.

9 MR. FREDERICK: Yeah, I think right now
10 our plan is to have a meeting on --

11 HEARING OFFICER FAY: The Public
12 Adviser, Ms. Mendonca is here. By the way, for
13 members of the public, that's our Public Adviser,
14 appointed by the Governor and she is here to
15 assist you in understanding our process. And she
16 told me that she's having trouble hearing people,
17 so, Jesse, speak right into the mike.

18 MR. FREDERICK: I'm always guilty of not
19 speaking loudly enough, except when people are
20 talking to me personally.

21 My understanding, I just got a call
22 earlier, our schedule is such that we are going to
23 meet next Thursday to resolve some of these
24 contract issues. Hopefully that will break the
25 log jam and we can proceed in a timely manner,

1 sufficient to at least show the Commissioners that
2 we do have a Letter of Intent, if that's
3 sufficient for the Commissioners or at least some
4 kind of a Memorandum of Understanding. We will
5 try to document at the time of the hearing some
6 kind of a formulation for the solution that will
7 take us into the construction phase in a manner
8 that's acceptable to the Commission. And perhaps
9 I'll ask the staff to give us some guidance as to
10 what they think would be necessary,
11 notwithstanding the availability of the actual
12 lease itself, because I think we're going to have
13 some timing issues there, but they're not, in
14 themselves, going to derail our ability to make
15 that August 1st date.

16 HEARING OFFICER FAY: And I'm not at all
17 anticipating problems on the part of the
18 Commission, but we've had previous cases where
19 ground control has been an issue and I just flag
20 that for you to the extent that you can remove
21 concerns about that. I think it would be good.

22 MR. FREDERICK: We will move accordingly
23 and certainly will work closely with the City and
24 County to resolve these issues.

25 HEARING OFFICER FAY: Obviously if both

1 parties are before the Commission and they say,
2 well, we're still working on details, but we're
3 very optimistic, I think that would help
4 tremendously.

5 MR. FREDERICK: Okay.

6 HEARING OFFICER FAY: Mr. Wheatland,
7 does that make sense to you?

8 MR. WHEATLAND: Absolutely, yes.

9 HEARING OFFICER FAY: Okay.

10 I'm just reviewing your prehearing
11 conference statement to see if I had any other
12 questions. And you indicated yourself that you
13 see no reason to believe negotiations cannot be
14 concluded in a timely manner.

15 Okay, I think that's about all that I
16 have in terms of questions. I hope you'll explore
17 the process for processing your request, your
18 ultimate request for financial assistance with the
19 staff so we can have a clear idea, especially
20 because of the tight timeframe, of how that can be
21 handled. And I don't know how long it's been
22 since we have done one of those, too, so we may
23 have to relearn that process as well.

24 Do you have anything further?

25 MR. WHEATLAND: No, thank you.

1 HEARING OFFICER FAY: Okay. Thank you.

2 Is Mike Boyd here or any representative
3 of his organization?

4 Okay, I see no indication that he is
5 here.

6 Ms. Mendonca, have you heard from Mr.
7 Boyd?

8 PUBLIC ADVISER MENDONCA: No. I was in
9 the Metcalf hearing yesterday and the Metcalf
10 hearings are continuing today. I sent an E-Mail
11 to Mr. Boyd explaining that I would be here today,
12 but I have not received a response, so I don't
13 know what his intentions were about the prehearing
14 conference.

15 HEARING OFFICER FAY: Okay.

16 Do any of the other parties have
17 anything further they'd like to add at this time.

18 Okay. What I think I'd like to do is
19 take some questions and comments from the
20 audience, people that are concerned about the
21 project, many of them live in the neighborhood.
22 And while this is not a formal evidentiary
23 hearing, it would be a chance for them to get some
24 of their concerns on the record and I would
25 encourage them to stay if they possibly can and

1 discuss these with the staff and the Applicant
2 because it may be that the concern has already
3 been addressed in some of the analysis that's been
4 done or it may be that the staff and the Applicant
5 need to learn some of the information that you
6 have from your intimate knowledge of your own
7 neighborhood.

8 So if anybody would like to comment, I'd
9 ask them to come up. Perhaps you can come up next
10 to Mr. Wolfe and speak in to both microphones, so
11 we're sure to not only hear you over the PA
12 system, but to record you. You should please
13 begin by stating your name and spelling it. And
14 if you'd tell us where you live, too, that would
15 help so we can relate your concerns to your
16 precise location, in what neighborhood, at least.

17 MS. CHATFIELD: Hi, my name is Kate
18 Chatfield and that's C-h-a-t-f-i-e-l-d. And I
19 live in the Bel Aire neighborhood of San Bruno. I
20 live on Second Avenue and this proposed powerplant
21 is about a mile from where I live.

22 I guess I have some concerns about this
23 powerplant being so close to my house. But first
24 I was noticing in here that I think we've been --
25 people in my neighborhood feel like we've been

1 caught off guard. You know, we're getting all of
2 our information out of the newspaper, which is not
3 a great way to get information. And I realize
4 that, I guess -- I was talking to Kevin Kennedy,
5 that legally we don't need to be informed. You
6 know we're not within a thousand feet of the
7 proposed powerplant.

8 However it does feel when you hear that
9 that we're deliberately being kept uninformed.
10 And, in fact, you know, the noise levels don't
11 stick to a thousand feet and the air quality
12 issues don't stay within a thousand feet. So I
13 would suggest that residents be kept apprised of
14 all these plans.

15 I notice that even the -- I understand
16 that this is on San Francisco land, but it is, you
17 know, it's across the street from South San
18 Francisco and the nearest neighborhood is in San
19 Bruno, which is in San Mateo County, so I would
20 like the City of South San Francisco and San Bruno
21 and San Mateo to be kept apprised of this -- you
22 know, all these plans as well, and I'm sorry that
23 there aren't representatives from the City and the
24 County here today.

25 HEARING OFFICER FAY: Well, the City and

1 County is represented by Mr. Wheatland.

2 MS. CHATFIELD: That's of San Francisco.

3 HEARING OFFICER FAY: Oh, I see.

4 MS. CHATFIELD: It's in San Mateo
5 County, so I'm sorry that there aren't
6 representatives of the City and County of San
7 Mateo here today, and that they apparently haven't
8 been kept apprised of all this as well. So, I'd
9 just like to make that clear.

10 You know, obviously I'm not an expert,
11 I'm just a resident, with two small children. I'm
12 kind of concerned when I hear, read in the
13 newspaper that a powerplant is going in down the
14 street from me. So I just -- obviously there are
15 two phases. There's a phase one that's a two-acre
16 site and a phase two that's seven acres and that
17 makes me a little nervous, you know.

18 And I do see in the phase one that the
19 powerplant that gets in under less stringent
20 environmental regulations will operate no more
21 than 4,000 hours a year, is that correct?

22 HEARING OFFICER FAY: Maybe Mr.
23 Frederick can answer your question.

24 MR. FREDERICK: Right now the operation
25 of that facility is being limited to 4,000 hours

1 per year, due to the Bay Area Air Quality
2 Management District limits. It's been expressed
3 to us by some of the agencies who feel the need
4 for additional electricity that they'd like to
5 expand the operation of that facility, but right
6 now we're staying within the exact constraints of
7 the law as currently in existence. So we don't
8 expect to exceed 4,000 hours per year for the
9 purposes of obtaining this license to build this
10 emergency peaker.

11 MS. CHATFIELD: And then if you do have
12 to expand hours, how will people know about that
13 or -- I mean you're saying --

14 MR. FREDERICK: We'd have to go through
15 modification to our existing license with the
16 Energy Commission and it would be a public process
17 that would require the same level of notice again.

18 MS. CHATFIELD: Okay. Well, I don't
19 know, I mean, like I said, I'm not, you know,
20 informed. I'm not an expert, you know, I'm just a
21 resident. I would like the residents of the area
22 to be kept better informed, that we don't get our
23 information out of the Chronicle or the San Mateo
24 County Times.

25 HEARING OFFICER FAY: If I can suggest,

1 if you sign the sign-in sheet --

2 MS. CHATFIELD: I did.

3 HEARING OFFICER FAY: -- and then get a
4 card from the staff so you can communicate with
5 them. They have E-Mail communication. The
6 Commission has a web page and the web page has a
7 dedicated part to this project and the staff
8 assessment is on line, I believe.

9 PROJECT MANAGER KENNEDY: The staff
10 assessment is on the web page.

11 HEARING OFFICER FAY: So anybody with a
12 computer and Internet access can read -- even if
13 you don't have a hard copy you can read any of the
14 information that's in the staff assessment.

15 I want to point out that the Commission
16 did make an effort to communicate with the
17 neighbors and we spent thousands of dollars
18 publishing a notice in the Chronicle and sending
19 information out. But this is often a problem, if
20 people don't happen to see the notice on that day.

21 We held an informational hearing down
22 here and very few people in the community
23 attended. And with a four-month process like this
24 is, it's one-third the length of time we normally
25 have. And when Phase Two is applied for, and I

1 believe it will be shortly, that will begin a one-
2 year process and it will obviously be easier to
3 pick up information because you have more time to
4 do so.

5 So we're sensitive to the fact that this
6 is very difficult for you. It's a very fast
7 process. But this is being done pursuant to a law
8 that attempted to get some peaking power on line
9 by next August.

10 MS. CHATFIELD: I understand. Again I
11 would just say that, you know, I mean the onus is
12 on the citizens to keep informed and I think that
13 there should be some, you know -- I mean I
14 appreciate an advertisement in the Chronicle,
15 however, you know, I will say that this
16 neighborhood, being so close to the airport, it's
17 not a wealthy neighborhood. It's a poor
18 neighborhood. A lot of people don't speak English
19 and so a lot of people don't get the Chronicle. A
20 lot of people can't read English.

21 I mean I don't want to -- I mean there
22 always are -- you know, when I talk to my
23 neighbors, you know -- I don't want to raise the
24 specter of environmental racism, but when we're
25 not kept informed I mean that does, you know, that

1 thought does cross our minds.

2 HEARING OFFICER FAY: Certainly.

3 MS. CHATFIELD: Okay.

4 HEARING OFFICER FAY: Thank you.

5 MS. CHATFIELD: Thanks.

6 PROJECT MANAGER KENNEDY: Actually, I
7 would just like to clarify one or two things.

8 We certainly have included the officials
9 at the County of San Mateo, City of San Bruno,
10 City of South San Francisco on the various agency
11 mailing lists. Whether or not in all cases we've
12 gotten the right people in the different cities
13 and counties, it's not always clear. But we
14 certainly have been making an effort to make sure
15 that those jurisdictions have been informed.

16 And certainly in terms of the larger
17 project, when that application comes in, we will,
18 as Gary mentioned, we'll be starting a separate
19 longer process. We'll be going through a very
20 similar set of analyses for the larger project.

21 Our starting point for the mailing list
22 for that will include anybody who has asked to be
23 on the mailing list for this. So if you're
24 signing up today and indicate you want to be on
25 our mailing list, you will be informed immediately

1 with notices as soon as we send notices out, you
2 know, once we receive the application on the
3 larger project. And it's certainly not our intent
4 to keep people uninformed.

5 I had mentioned the 1,000-foot radius
6 and there is a requirement that we make a point of
7 notifying property owners within a thousand feet.
8 We did hold a hearing earlier in, I believe it was
9 in November, down here in South San Francisco.
10 It's always a difficult question of how do you get
11 the information out there in a timely fashion so
12 people can hear about this. And we do what we
13 can.

14 MS. CHATFIELD: I know, I understand and
15 I appreciate what you've done. Thank you.

16 HEARING OFFICER FAY: And again I
17 encourage you and anybody else to not only use the
18 web page, but take advantage of the Public
19 Adviser's office. They have an 800 number and
20 they've been very good at keeping communities
21 informed. Not only on what's going on in the
22 case, but how you can participate so that you can
23 get whatever you need, whether it's just
24 information or whether you actually want to take a
25 position.

1 Anybody else?

2 PUBLIC ADVISER MENDONCA: The Public
3 Adviser's 800 number is 800-822-6228, and my E-
4 Mail is PAO, which stands for Public Adviser's
5 Office, @Energy.state.ca.us. And I have a one-
6 page project description, a really simple one-
7 page, something you can walk away with and didn't
8 have to take notes the whole time this was going
9 on, with those numbers on it which I'll leave up
10 here.

11 HEARING OFFICER FAY: So if you didn't
12 get that the first time be sure to grab the
13 handout.

14 MS. KAISER: Good morning everyone.
15 Yes, my name is Mariana Kaiser and I also live in
16 the Bel Aire area and I concur with everything
17 that Kate has said.

18 I read that San Mateo doesn't want your
19 powerplant, nor does San Jose want your powerplant
20 because apparently they are highly polluted as
21 compared to regular ones. So if it's a bad thing
22 for them, then I imagine it's a bad thing for us
23 to have it here. So what is the difference
24 between what you proposed over there and what
25 you're proposing over here?

1 And also, you are saying this is a,
2 quote "temporary plant". I don't think three
3 years is a very temporary time. I honestly don't
4 think you're going to invest all this time and
5 money and then in three years not do anything. In
6 fact, aren't you planning a bigger project in
7 concurrence with this?

8 And those basically are my questions for
9 now.

10 HEARING OFFICER FAY: Okay. Thank you.

11 Why don't we just take a second and,
12 Jesse, do you want to address those in terms of
13 the temporary nature of the project, its
14 relationship to the bigger project and also
15 relationship to the San Jose project that you
16 mentioned.

17 MR. FREDERICK: Right, first of all,
18 we're not proposing the project in San Jose. I
19 know there is a project being proposed in the San
20 Jose area, but this isn't the same project.

21 As far as the short term requirements,
22 the emergency legislation under which we proposed
23 the project has strict limits built into it. One,
24 it has specific requirements on air emissions.
25 We're going to be below the air emissions so we're

1 specifying the emergency legislation because we
2 feel that it's more appropriate to do so given the
3 available technology. And I think the Bay Area
4 Air Quality Management District has been very
5 supportive in our efforts in that regard.

6 As far as the three years itself, the
7 legislation states that the facility can have a
8 license to operate for three years. If, at the
9 end of three years the facility has not converted
10 to an acceptable combined cycle higher efficiency
11 powerplant, then it has to be removed.

12 There is a larger facility that is
13 proposed for this location. It was originally
14 proposed, but when the emergency legislation came
15 out we chose to go ahead and stop work on the
16 larger project to try to get this in in time to
17 meet the system emergency that the Legislature has
18 identified.

19 Our plan right now is to pull that unit
20 out of service at the end of three years if the
21 larger plant is not built, and I guess that's the
22 answer.

23 HEARING OFFICER FAY: And one thing
24 that, of course, everybody has to keep in mind is
25 that some of these new facilities do displace,

1 under certain circumstances, older facilities.

2 That, because they're older and have older
3 technology they do not burn as cleanly and so do
4 not produce electricity as cleanly as newer
5 facilities.

6 So in some ways it's a Hobson's Choice.
7 You may not want a new powerplant nearby but power
8 will be generated for the state and so sometimes
9 the old ones are even worse.

10 Okay. Would anybody else like to
11 comment?

12 Yes.

13 STAFF COUNSEL RATLIFF: Mr. Fay, if I
14 could just interject, I think there may be a
15 misunderstanding that there was something about
16 the urgency legislation under which this plan is
17 being licensed that lowered the environmental
18 requirements for this kind of project. And
19 although the time period for the licensing has
20 been greatly abbreviated, the environmental
21 standard that the project must meet is actually
22 higher than would normally be required. This
23 project cannot be licensed under the legislation
24 unless the Commission makes a finding that there
25 is no significant environmental impact from the

1 project. And that is a higher standard than any
2 of the other licensing projects that the Energy
3 Commission has before it.

4 I just wanted to make sure that that was
5 understood as well.

6 HEARING OFFICER FAY: Thank you. I'd
7 also mention that the staff analysis is being done
8 the same way on this project as it would be on a
9 longer project, even though there's less time.
10 Staff just had to turn over the information much
11 faster. And many of the reasons that that can be
12 done is because of decisions the Applicant made
13 before even applying for this, that is using an
14 industrial site that does not represent sensitive
15 biological resources, that type of thing.

16 So this process cannot be applied to
17 every situation.

18 MR. BARNES: My name is Alice Barnes, A-
19 l-i-c-e and I live in the Bel Aire district. Like
20 the previous two speakers I live within a one-mile
21 radius of the proposed site.

22 I should tell you I'm representing San
23 Bruno BART. BART stands for Bel Aire Residents
24 for Truth and our organization got started about
25 six years ago. And we look at projects that are

1 going to impact, especially our neighborhood, all
2 of San Bruno and we have a website, might as well
3 give it a plug, SanBrunoBART.com, really tough to
4 remember.

5 And I'd like to address something,
6 because it's a problem we have at
7 SanBrunoBART.com, and this is not just a plug.
8 And that is as much work as we do on the BART
9 project, etcetera, you folks, I bet if we asked,
10 not a one of you has ever looked at our website
11 and the reason is we didn't publicize it to you.
12 And likewise I will admit I never looked at your
13 website, because we never knew where it was.

14 So it says a lot, you know, -- a lot of
15 good it does to have a website, but unless you
16 tell it to the public nobody is going to look.
17 People in San Bruno know about us and they do
18 watch it.

19 So what we're going to do is we're going
20 to do a little bit something different here and
21 make an offer to you. From our website, which is
22 widely seen in San Bruno, we will put links to
23 your website, so that the people in San Bruno can
24 see this.

25 Now I understand that all those books

1 out back, there are copies of them in our public
2 library. I go to the public library all the time
3 and the librarian and I are good friends. I never
4 knew they were there. Nice of you to put them in
5 our library, but if we don't know about it, we're
6 not going to ask.

7 So what I guess I'm trying to tell you
8 is, you folks apparently are doing a great PR job,
9 but nobody is on the receiving end. Frankly, I
10 did not know about this plant until I read about
11 it recently in the Chronicle. And it was just
12 after reading the article that Ms. Chatfield
13 called me.

14 Where was I all this time? Well, I read
15 the San Mateo County Times every day and I can
16 honestly tell you I never saw anything about this
17 prior to just recently.

18 Now I've got to believe you're doing a
19 great job on PR because you want the public
20 involved, that's what all public agencies do, but
21 it ain't coming across at our end. And so you're
22 going to have to do better than that.

23 If you're publishing a legal notice in
24 the Chronicle, my goodness, there aren't very many
25 people who read that. And so that cuts no

1 territory with us. You've got to tell our
2 churches, our civic clubs, this project is
3 impacting San Bruno and I don't think that you
4 folks have really looked at it in enough detail.

5 Now Jim Brady was very kind to show me
6 some of the information that's critical to San
7 Bruno just this morning and I appreciate that. So
8 from our neighborhood we're not going to see the
9 stack. It's 140 feet behind a 120-foot building.

10 So, okay, go ahead and build it. Oh,
11 the sound from the facility. My neighborhood, and
12 I'm in a home, I own a home with soundproofing,
13 thanks to the airport, yet I still hear the
14 planes. I still hear United, especially at two
15 a.m. in the morning, when they're revving up their
16 engines. And the plans here look like the sound
17 is going to reverberate out over the bay. Thank
18 you.

19 So I should sit here and say, gee, this
20 is a good idea and let's go with it, but I'm not
21 so sure about the air quality. Even BART when
22 they decided to come in said the prevailing winds
23 were from the northwest, coming out over San Bruno
24 over the airport, and they're building their
25 facility with that in mind, and that is not

1 accurate information.

2 We live there. We know during the
3 summer the winds are from the east blowing towards
4 the ocean and so if you have air pollution, you've
5 already admitted this is not the cleanest plant
6 you're going to have. If you have this to the
7 east of San Bruno and the winds during the summer
8 go from the east to the west, we're going to get
9 them.

10 So I wish that you folks would look at
11 that again. Maybe you have and if so I apologize,
12 but once again, you bear half the responsibility.
13 You didn't tell me or you didn't get your point
14 across.

15 The other thing, you've got to think
16 about the people in San Bruno. There are 40,000
17 of us. Just recently, and I'm not going to go
18 astray here, I promise. We're trying to develop
19 the Navy site near Tanforan, about 20 some acres.

20 And I was on a committee, a civic
21 committee, trying to advise the community on what
22 to do with that. Well, we've got a swath going
23 through there that belongs to San Francisco water.
24 We've got limits as to how tall the buildings can
25 be because of San Francisco's airport.

1 We have San Francisco's BART tearing up
2 our town, cracking the tile in my bathroom,
3 etcetera. And we've got San Francisco's jail with
4 their escapees messing up our neighborhoods. Do
5 we really want a plant, putting in this air
6 pollution, over San Bruno?

7 At some point you folks in San
8 Francisco, with all due respect, are going to have
9 to sit down and pay attention to us and quit
10 dumping on us. It is not fair and we're human
11 beings and we would like some consideration. And
12 if you really have to do this, if you really,
13 really have to do this, do it quick and get out,
14 please. Thank you.

15 HEARING OFFICER FAY: Thank you.

16 In terms of the communication I think
17 we've covered that and ways that perhaps we can
18 improve on that, and I again refer you to the
19 Public Adviser's Office.

20 As to noise concerns and air quality
21 concerns, please check the staff assessment and
22 communicate your concerns after reading that
23 assessment because I think it will help you make
24 constructive comments.

25 Would anybody else like to make a

1 comment?

2 Yes, please.

3 MS. MYALL-KOOP: Good morning. My name
4 is Vicki Myall-Koop and I would have been here on
5 time, but our power was out.

6 HEARING OFFICER FAY: Would you spell
7 your last name, please?

8 MS. MYALL-KOOP: K-o-o-p.

9 HEARING OFFICER FAY: Thank you.

10 MS. MYALL-KOOP: And I would like to read
11 a statement and this is from the president of the
12 company I work for. I'm Director of Operations
13 there. And his statement is we support without
14 reservation the immediate construction and
15 operation of a new power generating facility near
16 United Airlines maintenance at SFO, and it's
17 signed Will C. Wohler.

18 And we all agree -- we had a meeting at
19 work and we all agree that this is a necessity and
20 that's our statement. Thank you.

21 HEARING OFFICER FAY: And what company
22 is that?

23 MS. MYALL-KOOP: Wohler Technologies, W-
24 o-h-l-e-r.

25 HEARING OFFICER FAY: Thank you.

1 MS. MYALL-KOOP: Thank you.

2 HEARING OFFICER FAY: She indicated
3 she's from South San Francisco.

4 MS. CALVERT: Sally Calvert, C-a-l-v-e-
5 r-t. I live in San Bruno a little bit west of all
6 these other people and I only have a couple of
7 things I want to mention, most of it has been said
8 better than I'm going to be able to say it.

9 But, one, someone should investigate
10 letting Channel 3 of our cable T.V. know, because
11 they post notices on there and I think probably
12 that's something that most people in San Bruno
13 see. Would you San Brunoites agree with that?

14 The second is has anybody -- I know it's
15 unlikely, but if there was some type of air
16 traffic accident, why a powerplant near an
17 airport, why a powerplant in a densely populated
18 area?

19 There is probably money involved, that's
20 probably the answer to that question, but
21 certainly there is more of a chance of an air
22 traffic accident in this area than there would be
23 in a less populated area not near any airport.

24 HEARING OFFICER FAY: And is your
25 question will the powerplant increase the risk of

1 an air accident?

2 MS. CALVERT: No, no. Would the
3 location near an airport increase the risk of an
4 air related accident and if there was one, what
5 would happen to this powerplant?

6 I worked in a building once and we had a
7 helicopter hover and put an antenna and the person
8 in charge of the building wanted a structural
9 engineer's report determining what would happen if
10 that helicopter crashed with the weight of the
11 fuel, the weight of the helicopter, the weight of
12 the antenna, what would happen to that roof and
13 what would happen to that building?

14 It never would have occurred to me to
15 ask that question and yet it turned out everyone
16 involved said, wow, that's a great question and
17 they went ahead and got a report and it turned out
18 everything would be fine, if the worst happened.
19 Has that been asked in this case?

20 What would happen if something landed on
21 this plant? Would it be a small explosion? Would
22 there be no explosion? Would it be contained in
23 the seven-acre area? Would it go, you know, five
24 miles away? Would my windows be blasted out? I'd
25 like to know the answer to that, because certainly

1 it could happen in three years and certainly
2 longer if it was going to be there permanently.
3 Much more than if this was built somewhere in a
4 very unpopulated area in the Central Valley.

5 There is probably reasons why you want
6 it here. Maybe the proximity to an airport is
7 handy. Maybe the air quality is so good, you
8 know, you can have your emissions and not go over
9 the standard because of the winds blowing
10 everything toward the Central Valley. You
11 probably have your reasons, but I'd like to know
12 the answer to that.

13 HEARING OFFICER FAY: Thank you.

14 Kevin, has the staff looked at that at
15 all?

16 PROJECT MANAGER KENNEDY: I would have
17 to double check with a couple of the specialists
18 in technical areas. I don't recall specifically
19 consideration of an air traffic accident.
20 Certainly in looking at hazardous materials
21 storage we were looking at the maximum release.
22 I'm not sure whether that was specifically
23 considered for that, but the, you know, potential
24 release of the hazardous materials on site was
25 looked at, at least in some other circumstances.

1 In other areas, offhand, again I'm not
2 certain whether or not it was specifically looked
3 at as a possibility, but that is something that I
4 will double check with the technical staff on.

5 HEARING OFFICER FAY: Okay.

6 Jesse, do you know if the AFC contains
7 anything like that?

8 MR. FREDERICK: I don't think that the
9 AFC itself, other than what the staff has alluded
10 to, which is that there is a detailed risk
11 assessment related to any hazardous materials that
12 are held on the side. And of course this facility
13 is going to use aqueous ammonia, which is much
14 like Windex as opposed to anhydrous ammonia, which
15 is very much like what is used out in agricultural
16 settings.

17 But a couple of items. One is the site
18 was selected because of the need for voltage
19 stability in the peninsula. It's a good location
20 in that regard. There's just -- it's very
21 difficult to find open space that is not subject
22 to many other constraints. We eliminated a lot of
23 alternative sites. This is a good location in
24 that regard.

25 And lastly, actually I did do an

1 aviation accident study in the Netherlands for a
2 chemical plant. What you typically find is that
3 the gas system is your only weak link in the
4 process and those have automatic shutoff systems
5 that ensure that no substantial gas releases
6 occur.

7 So the facility basically shuts down in
8 the event of an accident is what happens and
9 usually it causes more of a problem in terms of
10 overall system reliability, because you have a
11 full load trip effectively and it takes up
12 transmission in that area.

13 It's an electrical problem, more than it
14 is an emergency or hazardous materials problem.

15 HEARING OFFICER FAY: Thank you.

16 People should be aware that the facility
17 will be run by natural gas, that's the fuel for
18 this powerplant. And the natural gas will not be
19 stored at the site, it will be piped in just like
20 it is at your house. And of course it uses a
21 great deal of natural gas, but as Jesse pointed
22 out if there were some catastrophic accident the
23 gas system is designed to shut off automatically.

24 Risks include ammonia that he mentioned,
25 but by using aqueous ammonia it's, I believe,

1 about five times diluted. It takes much greater
2 volume to do the job because it is diluted with
3 water, but the advantage is that if there is a
4 spill of a tank or a spill during transfer that
5 it's a less toxic release.

6 So that has been addressed, but you may
7 want to look at that under hazardous material
8 handling in the staff assessment. And I believe
9 they've done an assessment of worst case scenarios
10 and that type of thing.

11 PROJECT MANAGER KENNEDY: Yeah, there
12 certainly is an analysis of worst case scenarios.
13 I just don't know whether explicitly an aircraft
14 crashing into it was included as part of that.

15 HEARING OFFICER FAY: The people who
16 analyze hazardous materials often don't care what
17 causes a release. They'll do a worst case
18 analysis based on a catastrophic release, whether
19 it was caused by a terrorist or an airplane
20 crashing into it or a total failure of a tank,
21 where it just completely disintegrates. It
22 doesn't matter to them what caused it, they just
23 look at the result.

24 So I encourage you to study that, if
25 you're concerned about that area and see what the

1 staff had to say. If you do have time, this is
2 the kind of thing you may be able to browse and
3 ask questions during the workshop.

4 If you find that you still have
5 questions after that, I would encourage you to
6 direct them to the staff and if you want to make
7 further comments you can certainly make them in
8 writing to the Energy Commission and your comment
9 will be included in the official record.

10 We keep a docket for this case and all
11 comments received are included in the docket.
12 It's a public record.

13 Would anybody else like to comment on
14 the record?

15 Yes, sir.

16 MR. GUERNESY: My name is Jerry
17 Guernesey. I live in Crestmore Park, San Bruno.
18 And my only concern is if this plant is put for
19 three years and then torn down is the public
20 paying for the bailout of this short-term
21 operation?

22 MR. FREDERICK: No, this plant by
23 design, under the new regulations, it's a new
24 plant, gets no government support at all. This is
25 purely a merchant private plant.

1 MR. GUERNESY: And the company will take
2 a major loss if they only have it for three years
3 or does the public pay it in PG&E bills?

4 MR. FREDERICK: I really can't debate
5 policy. I, too, am a PG&E rate payer.

6 The way the plant is proposed is purely
7 as a merchant plant. We ask no monies from the
8 state or local agencies, no sureties from the
9 state or local agencies. It's borne at risk by
10 the private sector and that's the way the
11 regulations are written. We can't seek that kind
12 of subsidy.

13 HEARING OFFICER FAY: Now, as a follow-
14 up I'll tell you that their plan and the plan of
15 anybody building such a peaker is that at the end
16 of three years they will have applied for a larger
17 facility and they hope that they will be granted
18 permission to build a larger facility and then
19 we'll incorporate the peaker into that larger
20 facility. So that makes more sense businesswise
21 in the long run, than just building a peaker for
22 three years and then totally tearing it down. So
23 that is what they hope to achieve, am I correct?

24 MR. FREDERICK: Well, that would be
25 optimal, given the location and the need. But,

1 again, our crystal ball can only take us three
2 years in terms of what we can sign contracts for.

3 HEARING OFFICER FAY: Mr. Wheatland.

4 MR. WHEATLAND: The gentleman also
5 asked, though, about how the costs would be
6 recovered. And the costs for the plant would be
7 recovered through energy sales that would be made
8 into the state's energy system to PG&E or others
9 and so the rates will reflect the cost of this
10 plant and the sale of this plant -- the sale of
11 energy by this plant.

12 HEARING OFFICER FAY: And most of you
13 may be familiar with a typical powerplant and we
14 call those baseload powerplants. They run almost
15 all the time.

16 A peaker powerplant is a backup
17 emergency powerplant and it's called a peaker
18 because it's there and it gets turned on when we
19 need peak power, when we hit the peak. And most
20 of the time it's not running. That's why it can
21 make financial sense to them to be limited to
22 4,000 hours because the 4,000 hours that they'd be
23 selling at are very valuable hours.

24 It helps the system to address peak
25 demand and that's why this legislation was passed.

1 Yes?

2 FROM THE AUDIENCE: Four thousand hours
3 is 11 hours a day, seven days a week. I did it on
4 my calculator.

5 Your comment was that 4,000 hours is 11
6 hours a day for how long?

7 FROM THE AUDIENCE: Seven days a week.

8 HEARING OFFICER FAY: Seven days a week.

9 Thank you.

10 Okay, anything further from the
11 audience?

12 Ms. Mendonca?

13 PUBLIC ADVISER MENDONCA: Maybe coming
14 in a few moments late is a benefit.

15 I've heard quite a bit of comment from
16 the audience about the role of public comment and
17 I just wanted to call it to the public's attention
18 that today's meeting is recorded.

19 The workshop that follows is an informal
20 workshop. It is not recorded, but the big event
21 is happening on January 26 and 29. We call them
22 evidentiary hearings, which is kind of a stilted
23 word. It really means formal hearings.

24 The Commissioners, who are the decision-
25 makers will be here for that hearing. And that

1 will be important if you still have concerns after
2 your comments today, if you feel your questions
3 are not answered, it will be important for you to
4 be at that formal hearing to have the Commissioner
5 know what are your concerns.

6 The Applicant has come forward with
7 their document which is their proposal. The staff
8 has done an independent analysis of that proposal
9 and there has been a dialogue back and forth.

10 Mr. Fay is here representing the
11 decision-makers, the Commissioners. They are
12 neutral at this point, but ultimately they have to
13 make a decision and in making that decision, they
14 rely on the formal record of evidence. That's the
15 formal sworn testimony that comes at our formal
16 hearings.

17 Comment can augment matters in the
18 record, but it would be important for you to be
19 heard at the evidentiary hearings.

20 Thank you.

21 HEARING OFFICER FAY: Thank you, Ms.
22 Mendonca.

23 The ways that we can improve
24 communication on this I think we've touched on, go
25 on line and look at the materials regarding this

1 project, communicate with the Public Adviser's
2 Office. I encourage you to use San Bruno BART's
3 web page, especially since they'll put in a link
4 to ours at the Energy Commission and they may also
5 have comments on the project that can keep the
6 community informed. Use the 800 number for the
7 Public Adviser and I think that might help
8 increase our understanding.

9 In addition, I would like to suggest on
10 behalf of the Committee, that we proceed and take
11 evidence in all the areas on the 26th, including
12 air quality and transmission system engineering,
13 to the extent that it is available. And what that
14 may mean is that the evidence will reflect a
15 preliminary evaluation.

16 For instance, in air quality, it would
17 probably be based on the preliminary determination
18 of compliance. And, as Mr. Wheatland indicated,
19 the city is hopeful and I'm sure other parties are
20 too, that the FDOC will be very similar and that
21 if it is they do not have great concerns.

22 Obviously, people would modify their
23 position if the final determination of compliance
24 was quite different. But I think we need to go
25 forward and create a record based on this

1 preliminary information and then we will
2 supplement it when we have our, what is usually a
3 conference to take comments on the Presiding
4 Member's proposed decision.

5 I think we've got that scheduled for
6 February 23rd and in this case, because of the
7 tight time schedule, we will also take formal
8 evidence at that time and that evidence would be
9 to receive the final determination of compliance,
10 the interconnection studies and comments on those
11 studies from the independent system operator and
12 any other evidence that we've had to hold the
13 record open for.

14 At the same time on that day, we would
15 receive comments from the public or any party on
16 the Committee's Presiding Member's proposed
17 decision. And what that is is essentially a draft
18 decision that the two Commissioners on the
19 Committee prepare for the full Energy Commission.
20 And their draft is kept available for 30 days
21 before the Energy Commission makes its final vote.

22 So you have 30 days to comment on the
23 Presiding Member's proposed decision and you can
24 do so in writing or you can show up at the Energy
25 Commission on the day that they consider this

1 project and comment at that time.

2 In addition, based on the concerns I've
3 heard from the public here, I would like to see
4 witnesses on air quality, noise and hazardous
5 materials present at the hearing. I understand
6 there's no disputes in those areas, but I think
7 having the experts here would make any questions
8 from the public go more smoothly.

9 We normally don't entertain informal
10 questions. We have formal cross examination by
11 the parties. However, it may be possible and time
12 may allow us to bend the rules a little bit and
13 after each subject is addressed, formally, to
14 allow informal questions from members of the
15 community who decide to come. And that just
16 facilitates information and I think it helps
17 everybody.

18 Are there any comments on moving forward
19 in that way from any of the parties?

20 MR. BROOKHYSER: Mr. Fay, is it your
21 inclination then as to the other areas, other than
22 noise, hazardous materials and air that the
23 testimony just be taken by declaration?

24 HEARING OFFICE FAY: That's what I would
25 propose. And so if you have a concern about that,

1 please let me know now.

2 But what that means is that there would
3 only be live witnesses in the areas of air
4 quality, noise and hazardous materials. And there
5 would be no live witnesses in the other areas,
6 that testimony would just be submitted in writing.

7 You could still ask questions at the
8 time we take that testimony. For instance, if it
9 was in the subject of cultural resources and you
10 wanted to know if there were any artifacts under
11 the site, you could ask the Project Manager, who
12 is familiar with the staff's analysis, or ask the
13 Project Manager for the Applicant, who is familiar
14 with their analysis. But, those Project Managers
15 are not their own experts, necessarily, in that
16 subject.

17 However, we will have experts here in
18 the three areas that I indicated.

19 Any further comments? Any questions
20 about how we're going to proceed?

21 Okay. The staff has filed its testimony
22 as of January 11th. The Applicant and any other
23 party that is planning to file testimony will be
24 filing today.

25 Does CURE plan to file formal testimony?

1 MR. WOLFE: My understanding is we would
2 just docket what I described earlier, essentially
3 a declaration, and we would do it before the 26th,
4 but not today.

5 HEARING OFFICER FAY: That's fine.

6 What he's referring to is copies of
7 contracts that will be submitted for the record
8 and they would stand on their own as evidence that
9 an agreement has been reached on labor issues.

10 Any other comments?

11 Mr. Wheatland, do you think we can
12 proceed in that way?

13 MR. WHEATLAND: Yes.

14 HEARING OFFICER FAY: All right, very
15 good. That concludes our prehearing conference
16 and I thank you all for coming. I encourage you
17 to stay for the informal workshop that will begin
18 at one o'clock.

19 We're adjourned.

20 (Thereupon the Energy
21 Commission Prehearing
22 Conference on United Golden
23 Gate Power Project was
24 adjourned at 11:21 a.m.)

25

CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Prehearing Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Prehearing, nor in any way interested in the outcome of said Prehearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of January, 2001.

VALORIE PHILLIPS

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